

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KEVIN J. YALE,)	8:08CV50
)	
Petitioner,)	
)	
v.)	MEMORANDUM
)	AND ORDER
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

This matter is before the court on its own motion. On April 23, 2008, the court ordered Petitioner to notify the court regarding whether he intended for this matter to be treated as a motion brought pursuant to 28 U.S.C. § 2255. (Filing No. 6 at CM/ECF p. 2.) The court also ordered Petitioner to inform the court regarding whether he would like to amend his Petition. (*Id.*)

On May 29, 2008, Petitioner requested that the court recharacterize his Petition as filed pursuant to 28 U.S.C. § 2255. (Filing No. 7.) Petitioner further stated that he “does not intend to amend his Petition” and that the Petition “contains all presently known § 2255 claims.” (*Id.*)

IT IS THEREFORE ORDERED that:

1. The Petition for Writ of Habeas Corpus (filing no. 1) is recharacterized as a motion filed pursuant to 28 U.S.C. § 2255.

2. This matter is dismissed without prejudice. The Clerk of the court is directed to refile the Petition as a motion brought pursuant to 28 U.S.C. § 2255 in Case No. 8:05CR191, assigned to Judge Laurie Smith Camp.

3. A separate judgment will be entered in accordance with this Memorandum and Order.

May 29, 2008.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge